

0076



JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil Gas and Mining

JOHN R. BAZA  
Division Director

May 2, 2007

Jay Marshall, Resident Agent  
Utah American Energy Inc.  
P.O. Box 986  
Price, Utah 84501

Subject: Permit Application Approval, Lila Canyon Extension, Utah American Energy, Inc. (UEI), Horse Canyon Mine, C/007/0013, Task ID #2741, Outgoing File

Dear Mr. Marshall:

The permit application package for the Lila Canyon Extension of the Horse Canyon Mine, updated through April 24, 2007 is approved. The Division has made the findings required by Utah Code §40-10-14 (1) (2007) and R645-300-133, Utah Administrative Code (2006) with the exception of the finding required by R645-300-133.730 regarding payment of reclamation fees from previous and existing coal mining and reclamation operations which shall be a condition to be verified as part of the updates required by R645-301-112.900 and R645-301-113.400 prior to issuance of the permit. The required findings are itemized on the attached summary. The documents that support these findings including the Division's Technical Analysis and Cumulative Hydrological Impact Analysis, the necessary consultation letters with the United States Fish and Wildlife Service, the determination of compliance with the National Historic Preservation Act, and the Bureau of Land Management's Resource Recovery and Protection Plan and other supporting information will be placed in the public information room and will be mailed to those entitled to notice pursuant to R645-300-152.

This is a final decision pursuant to R645-300-151 and a permit will be issued upon:

- submittal of a performance bond in accordance with R645-301-800,

**File in:**

- ☐ Confidential  
☐ Shelf

☒ Expandable

Refer to Record No 0076 Date 5/2/07  
In C/007/0013, 2007, Outgoing  
For additional information



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- any required updates, corrections, or a confirmation that no change has occurred in the ownership and control and compliance information as set out in R645-301-112.900 and R645-301-113.400 and detailed on "List 3" attached to the Division's decision letter dated January 19, 2007, and
- the Division finding that the operator has paid required reclamation fees as required by R645-300-133.730 and R645-300-132.100.

The permit will be conditioned upon compliance by UEI with the terms and conditions set out on "List 2" attached to the January 19, 2007 letter.

This decision may be subject to administrative review before the Board of Oil, Gas and Mining, in accordance with R645-300-200 by requesting a hearing on the reasons for the decision within 30 days of this letter. If you have any questions, please feel free to contact Mary Ann Wright at ph. (801) 538-5306 or myself at (801) 538-5334.

Sincerely,



John R. Baza  
Director

Attachments:

Findings Summary  
TA  
CHIA  
USFWS letter  
SHPO letter  
BLM R2P2  
Road Findings (7-18-2001)  
OSM Unsuitability Decision  
AVS Evaluation Report (5-02-2007)

cc: Denise Dragoo, Snell & Wilmer w/o attachments  
Ranvir Singh, OSM w/o attachments  
Jim Kohler, BLM w/o attachments  
Stephen Bloch, SUWA w/ attachments  
Drew Sitterud, Emery County w/ attachments

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**FINDINGS**  
**Application Approval**

**UtahAmerican Energy, Inc.**  
**HORSE CANYON MINE**  
**C/007/0013**  
**Lila Canyon Extension**

**May 2, 2007**

1. All procedures for public participation required by the Act, and the approved Utah State Program have been complied with. See Affidavits of Publication in Appendix 1-5 of PAP. (R645-300-120)
2. The permit application for the extraction of coal from federal leases SL-066145, SL-066490, U-014218, U-0126947, SL-069291, U-014217 using new surface facilities at Lila Canyon is accurate and complete and all requirements of the Surface Mining Control and Reclamation Act, and the approved Utah State Program (the "Act") are in compliance. See Technical Analysis (TA) dated April 27, 2007 (R645-300-133.100)
3. The proposed lands to be included within the permit area are:
  - a. Not included within an area designated unsuitable for underground coal mining operations (R645-300-133.220); A small portion of the proposed permit area addition overlaps with the Turtle Canyon Wilderness Study Area. The BLM's 1993 Environmental Assessment (EA) prepared for management of the Turtle Canyon Wilderness Study Area, states that underground mining would be acceptable in this area. Also see Technical Analysis dated April 27, 2007 and OSM decision on SUWA's unsuitability petition dated August 24, 2006 and reaffirmed by OSM on October 12, 2006.
  - b. Not within an area under study for designated land unsuitable for underground coal mining operations (R645-300-133.210); The BLM's 1999 Utah Wilderness Inventory identifies the Desolation Canyon Wilderness Inventory Unit and the Turtle Canyon Inventory Unit as having wilderness characteristics, however, the BLM plan for this area has not changed to date. See Technical Analysis dated April 27, 2007 and OSM decision on SUWA's unsuitability petition dated August 24, 2006 and reaffirmed by OSM on October 12, 2006.
  - c. Not on any lands subject to the prohibitions or limitation of 30 CFR 761.11 {a} (national parks, etc), 761.11 {f} (public buildings, etc.) and 761.11 {g} (cemeteries).
  - d. Not within 100 feet of a public road except where the Lila Canyon road abuts the surface facilities area of the proposed mine. In this case the permittee has obtained permission from the road authority for conducting mining activity within 100 feet of the road. (R645-300-133.220) See Analysis and Findings on the Lila Canyon Road dated July 18, 2001.
  - e. Not within 300 feet of any occupied dwelling (R645-300-133.220).

4. The applicant has the legal right to enter and complete mining activities in the Lila Canyon area through the federal coal leases and a right-of way issued by the Bureau of Land Management. (UEI purchased six federal coal leases in June 2000 from IPA and BLM transferred these federal coal leases from IPA to UEI. The Decision Record for the EA (which includes the right-of-way) was signed on October 27, 2000. This decision was appealed by SUWA. IBLA affirmed the BLM position on September 22, 2004. (R645-300-133.300)
5. An assessment of the probable cumulative impacts of all anticipated coal mining and reclamation activities in the general area on the hydrologic balance has been conducted by the Division and no significant impacts were identified. See CHIA dated April 30, 2007. The Mining and Reclamation Plan (MRP) proposed under the revised application has been designed to prevent damage to the hydrologic balance in the permit area and in associated off-site areas. (R645-300-133.400 and UCA 40-10-11 (2)(c))
6. The operation would not affect the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973. Original Section 7 consultation with the United States Fish and Wildlife Service (FWS) (letter dated April 28, 2000) stated that no species-specific protective measures are considered necessary for the project; however, correspondence (letter dated July 18, 2001) identified the possibility of spotted owl habitat within the permit area. The MRP addressed and committed to protection measures for the Mexican spotted owl and were acknowledged by an Informal Section 7 consultation letter from FWS dated February 28, 2006. The FWS letter to the Division stated their position regarding impacts, specifically to golden eagles for the Lila Canyon extension project. Conditions have been added to the permit that outline the process to be followed by UEI for adequate protection of raptors. (R645-300-133.500)
7. The Division's issuance of a permit is in compliance with the National Historic Preservation Act and implementing regulations (36 CFR 800). See SHPO Clearance letter dated February 5, 2007 and Programmatic Agreement (dated April 19, 2007 and signed April 30, 2007) and Technical Analysis dated April 27, 2007. (R645-300-133.600)
8. The applicant proposes acceptable practices for the reclamation of disturbed lands. The Division has determined that reclamation, as required by the Act can be feasibly accomplished following the approved plan as outlined in the PAP. See Technical Analysis dated April 27, 2007. (R645-300-133.710)
9. The applicant has demonstrated that all mine facilities and structures will comply with the applicable performance standards of R645-301. No special categories of mining are proposed so the R645-302 regulations do not apply. The Lila Canyon facilities will be newly constructed and will not utilize any existing structures. (R645-300-133.720, R645-300-133.740)
10. A final 510 (c) report has not been run on the Applicant Violator System (AVS) and the permit will not be issued prior to a final report that will confirm that: (a) no change has occurred in the ownership and control and compliance information as set out in R645-301 112.900 and R645-301-113.400; (b) prior violations of applicable laws and regulations have been corrected; (c) neither UtahAmerican Energy, Inc. or any affiliated company,

are delinquent in payment of fees for the Abandoned Mine Reclamation (AMR) Fund; and (d) the applicant does not control and has not controlled mining operations with demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act. A preliminary run of the 510(c) report has not revealed any violations that have not been corrected, failure to pay reclamation fees, nor a pattern of willful violations. (R645-300-133.730 and R645-300-132.100)

11. The proposed post mining land-use of the permit area will remain the same as the pre-mining land use. (R645-300-133.750)
12. The applicant has posted a surety bond for the Horse Canyon Mine which includes the Lila Canyon facilities in the amount of \$2,617, 328), payable to the Office of Surface Mining as well as the Utah Division of Oil Gas and Mining. Prior to permit issuance, \$131,000 must be posted, so that a total of \$2,617,328 is posted. (R645-300-134)
13. No lands designated as prime farmlands or alluvial valley floors occur on the permit area. See Technical Analysis dated April 27, 2007 (R645-302-313.100 and R645-302-321.100)
14. The prior Analysis and Findings on the Lila Canyon Road dated July 18, 2001 and upheld by the Board of Oil, Gas and Mining in its December 14, 2001 Order are still applicable. There has been no significant change in the road, the right of way, or ownership and maintenance obligations.